

Appln No. 10/571,985
Amdt date March 23, 2011
Reply to Office action of January 03, 2011

REMARKS/ARGUMENTS

Claims 19-41 are pending in the above-referenced application.

Claim 19 has been amended to incorporate the limitations of allowable claim 42. Claim 42 has been canceled. Claims 23, 29 and 38 have been amended to further define Applicant's invention. Support for the amendments can be found at, among other places, paragraph [0036] of the instant Specification and in originally filed figure 1. No new matter has been added.

This is a response to the Office Action dated January 03, 2011 wherein the Examiner rejected: (1) claims 19-26, 29-31 and 37-39 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,727,803 (Cobb); (2) claims 32-36 and 40 under 35 U.S.C. 103(a) as being unpatentable over Cobb in view of U.S. Patent No. 4,986,053 (Schaefer); (3) claim 41 under 35 U.S.C. 103(a) as being unpatentable over Cobb in view of Schaefer as applied to claim 38 above, and further in view of U.S. Patent No. 5,547,900 (Larkin); (4) claim 27 under 35 U.S.C. 103(a) as being unpatentable over Cobb in view of Larkin; and (5) claim 28 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,171,412 (Braun).

Claim 42 is objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant respectfully thanks the Examiner for the time and effort in preparing and issuing the instant Action and for the conditional allowance of claim 42.

In view of the amendments indicated above and the remarks that follow, reconsideration and a notice of allowance are respectfully solicited.

Interview summary

A telephone interview was conducted on February 15, 2011 between Examiner Stephanie E. Williams, Supervisor Kevin Shaver and Applicant's undersigned attorney, Tom H. Dao and Patent Agent, Dr. Brigitte C. Phan. As summarized in the Interview Summary dated February 18, 2011, during the interview, the base (10) of the '803 Cobb reference was discussed. The

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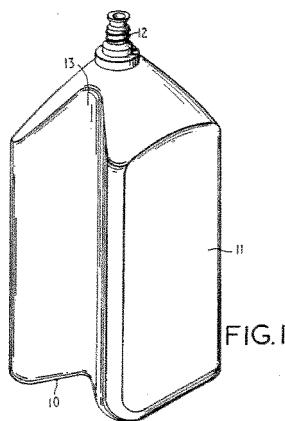
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Examiner referred to Fig. 4 of the cited reference to show that the base 10 collapses outwardly. Mr. Dao pointed out that given the described and illustrated shape of the base 10 (Figs. 1 and 2), the Cobb container cannot have the protruding portion from the sidewall when the container collapses as shown in Fig. 4. Mr. Dao concluded that from Figs 1, 2 and 4 it is unclear whether the base collapses outwardly. To more accurately understand the cited reference, Mr. Dao proposed to make a model of the Cobb's container as described by the specification to determine how the base actually extends when the container collapses. Pictures of a prototype or sample Cobb container for purpose of understanding the base 10 are shown below for discussion purposes.

Applicant respectfully thanks the Examiner and the Supervisor for a productive interview. In view of the interview and the reconstructed Cobb container, the claims have been amended as indicated above to more clearly define Applicant's invention.

The '803 Cobb reference

The '803 Cobb reference discloses a collapsible container for holding and dispensing



viscous or semi-liquid products (Abstract, Fig. 1, reproduced herein). The collapsible container disclosed by Cobb comprises a relatively thick and rigid base 10, which provides a level support for the container (Col. 1, lines 52-53 and Col. 2:4-9, "The base, owing to its greater rigidity will not collapse in the same manner; it is possible to fold up opposite edges . . .") and two opposing flat and planar walls 11 extending from the base 10. The base 10, from the bottom view, has the shape of "two similar trapezoids united along the shorter of their parallel sides" (Fig. 2, reproduced herein, Col. 1, lines 54-56). By virtue of the shape of the base 10 and its rigidity, the two other opposing walls 13 have a V-shaped configuration which allows the container to collapse to a substantially flat

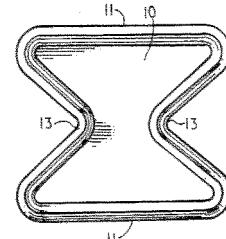


FIG.2

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position (Col. 1, line 65 to Col. 2, line 4). The base 10, however, because of its rigidity, will not collapse along with the collapsible walls 13 (Col. 2, lines 5-6). To completely expel the remaining content in the container, Cobb teaches “*fold[ing] up opposite edges of the base 10 towards the center line of the container about the line along which the shorter parallel sides of the two trapezoids are joined.*” (Col. 2, lines 4-9). Cobb further teaches: “*To assist in folding up the base, the container may be formed with an inwardly directed indentation across the line of folding of the base.*” (Col. 2, lines 18-20). To assist in folding up the base, Cobb teaches that “*the container may be formed with an inwardly directed indentation across the line of folding of the base*” (Col. 2, lines 17-20).

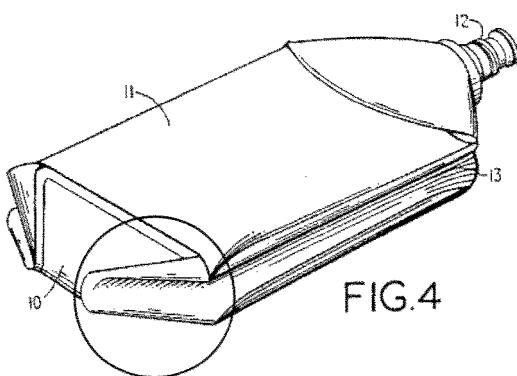


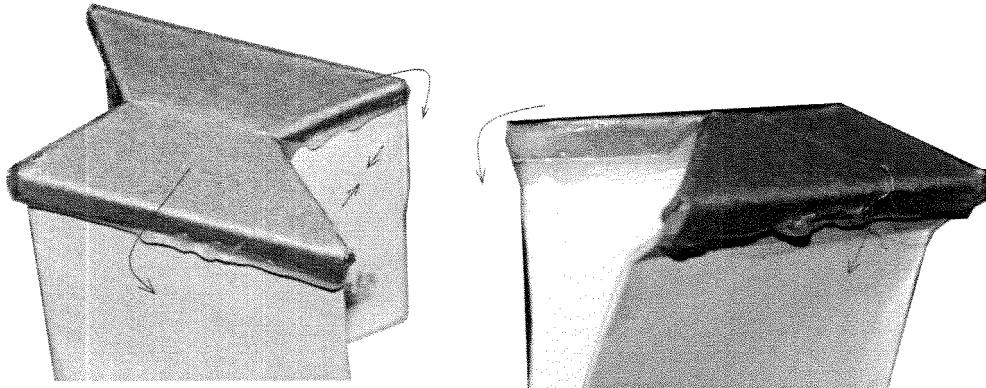
FIG. 4

The Examiner relies on Fig. 4 (reproduced herein) to show that the base 10 extends outwardly when the container collapses. As set forth above, Applicant found Fig. 4 incompatible with Figs. 1-2 and the description of the base. Among other things, the base 10 has two cut-outs

to match corresponding V-shaped side walls. For the two side sections of base 10 to project axially away from the inlet as shown in FIG. 4, the base and the side walls must somehow “grow” or “add” materials to form the protruding or extending portions, which is physically and scientifically impossible.

Applicant has constructed a container according to the specification of Cobb to show that FIG. 4 is drawn in error and inconsistent with the specification and FIGs. 1-2. The prototype shows a container having a base as illustrated in Fig. 2 of Cobb and made from a more rigid and thicker material than the sidewalls. As the following two pictures clearly show, the base 10, by virtue of its indented shape and rigidity, cannot “grow” side edges and adopt the configuration shown in Fig. 4, when the container collapses. As shown, the V-shaped corners remain in both filled and collapsed states.

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Having clarified the inconsistency within the '803 Cobb reference and to more clearly define Applicant's inventions, Applicant has amended claims 19, 23, 29 and 38 as indicated above.

§ 102(b) Rejection of Claims 19-26, 29-31 and 37-39 by Cobb

In rejecting claims 19-26, 29-31 and 37-39 under § 102 (b) over Cobb, the Examiner alleges that the '803 Cobb patent discloses all the claimed elements.

Preliminarily, for a reference to anticipate a claimed invention under § 102(b), it must adequately meet the terms of the claimed invention interpreted in light of the specification of the application. As set forth in the statute, the single prior art reference must disclose each and every element of the claim under consideration. Moreover, it cannot be rebuilt or reoriented by the utilization of Applicant's teachings in an attempt to create an anticipatory structure.

Of the rejected claims, independent claim 19 has been amended to incorporate the limitations of allowable claim 42. Therefore, claim 19 and its dependent claims 20-26 are allowable.

Of the other rejected claims, amended independent claim 29 recites:

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29. (Currently Amended) A method for manufacturing a molded standing container for infusion liquids comprising the steps:

extruding a preform of a polymer material; and

expanding the preform by blow molding to form the container, the container comprising a plurality of side walls and a bottom wall defining an interior cavity, the bottom wall comprising a rectangular perimeter attached to the plurality of side walls and a fold line located on the bottom wall away from the perimeter comprising a weakened portion configured so that portions of the bottom wall fold at the fold line and move radially away from the interior cavity from a first position relative to the interior cavity to a second further outward position relative to the interior cavity when the container collapses.

Thus, claim 29 makes clear that that the bottom wall of the container comprises a rectangular perimeter attached to the plurality of side walls and a fold line located on the bottom wall away from the perimeter comprising a weakened portion.

As set forth above, the base 10 of Cobb has an indented shape comprising “two similar trapezoids united along the shorted of their parallel sides” (Cobb, Fig. 2, Col. 1, lines 56-57). This indented shape allows the sides to collapse and subsequently permits the base 10 to fold up towards the center line (Cobb, Col. 2, lines 5-10).

Thus, Cobb does not disclose, among other things, a method for manufacturing a molded standing container for infusion liquids comprising in part, expanding the perform by blow molding to form the container, the container comprising in part a bottom wall comprising a rectangular perimeter attached to the plurality of side walls and a fold line located on the bottom wall away from the perimeter, as recited in part in claim 29. Thus, Cobb does not disclose each and every element of the claimed method and therefore fails to anticipate claim 29 under § 102(b). As claims 30-31 depend from claim 29, they too are allowable over the ‘803 Cobb patent for at least the same reason.

Of the other rejected claims, independent claim 38 has been amended to recite:

38. (Currently Amended) A molded container for liquid infusion, said container comprising a plurality of side walls and a bottom wall defining an interior cavity, the bottom wall comprising an exterior surface and an interior surface, and a shoulder portion of reduced cross-section forming a discharge end; said plurality of side walls comprising a fold line for collapsing at least two of said side walls; and said bottom wall comprising a plurality of fold lines with at least two of the fold lines angled to one

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another, wherein when the container is emptied, portions of the exterior surface are configured to move outwardly away from the interior cavity from a first position relative to the interior cavity to a second further outward position ; and wherein the bottom wall is folded along the plurality of fold lines..

Similar to claim 19, claim 38 is directed to a molded container which comprises a plurality of side walls and a bottom wall defining an interior cavity. Claim 38 makes clear that the bottom wall comprises a plurality of fold lines with at least two of the fold lines angled to one another and when the container is emptied, the bottom wall is folded along the plurality of fold lines.

As described, Cobb does not disclose a container having a bottom wall comprising a plurality of fold lines with at least two of the fold lines angled to one another and wherein the bottom wall is folded along the plurality of fold lines when the container is emptied. Thus, Cobb does not disclose each and every element of the claimed container and therefore fails to anticipate claim 38 under § 102(b). As claim 39 depends from claim 38, it too is allowable over the ‘803 Cobb patent for at least the same reason.

§ 103(a) Rejection of Claims 32-36, 40 by Cobb in view of Schaefer

In rejecting claims 32-36 and 40 as being unpatentable over Cobb in view of Schaefer, the Examiner relies on Cobb to “disclose substantially all the structure and functionality of the invention; however the Cobb reference lacks the preform of the container being a multi-layer preform consisting of an overall wall thickness.” The Examiner relies on Schaefer to teach a container having a multi-layer preform (Office Action, page 4).

Of the rejected claims, claims 32-36 depend either directly or indirectly from claim 29 and claim 40 depends from claim 38.

As set forth above, the ‘803 Cobb patent fails to anticipate claim 29 for failing to disclose each and every element of the pending claim. As the ‘053 Schaefer reference is merely relied on to disclose a multi-layer preform, it does not cure the deficiencies of the ‘803 Cobb reference. Even if combinable, a position that Applicant does not concede, the cited references of Cobb and Schaefer still fail to disclose all the elements of claim 29. At a minimum, the cited references do

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not disclose a method for manufacturing a molded standing container for infusion liquids, comprising in part the step of expanding the preform by blow molding to form the container, the container comprising a plurality of side walls and a bottom wall defining an interior cavity, the bottom wall comprising a rectangular perimeter attached to the plurality of side walls and a fold line located on the bottom wall away from the perimeter comprising a weakened portion configured so that portions of the bottom wall fold at the fold line and move radially away from the interior cavity from a first position relative to the interior cavity to a second further outward position relative to the interior cavity when the container collapses, as recited in part by claim 29. Thus, the cited references fail to render claim 29 obvious under § 103(a). As claims 32-36 depend from claim 29, they too are allowable for at least the same reason.

Similarly, as set forth above, the ‘803 Cobb reference fails to anticipate claim 38 for failing to disclose each and every element of the pending claim. As the ‘053 Schaefer reference is merely relied on to disclose a multi-layer preform, it does not cure the deficiencies of the ‘803 Cobb reference. Even if combinable, a position that Applicant does not concede, the cited references of Cobb and Schaefer still fail to disclose all the elements of claim 38. At a minimum, the cited references do not disclose a molded container for liquid infusion, the container comprising a bottom wall comprising a plurality of fold lines with at least two of the fold lines angled to one another, wherein when the container is emptied, portions of the exterior surface are configured to move outwardly away from the interior cavity from a first position relative to the interior cavity to a second further outward position ; and wherein the bottom wall is folded along the plurality of fold lines, as recited in part by claim 38. Thus, the cited references fail to render claim 38 obvious under § 103(a). As claims 40 depends from claim 38, it too is allowable for at least the same reason.

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§ 103(a) Rejection of Claim 41 by Cobb in view of Schaefer and further in view of Larkin

In rejecting claim 41, the Examiner relies on Cobb in view of Schaefer to “disclose substantially all the structure and functionality of the invention, however, [] both references lack two ports at the discharge end of the container”. The Examiner relies on Larkin to teach a container for liquids having a discharge end consisting of two ports. The Examiner then concludes that it would have been obvious to one having ordinary skill in the art to modify the Cobb container in view of Larkin to come up with the claimed container. (Office Action, page 4).

Claim 41 depends from claim 38. As set forth above, the cited references of Cobb and Schaefer fail to render claim 38 obvious for not disclosing all the elements of the pending claim. As Larkin is merely relied on to disclose a discharge end with two ports, Larkin does not cure the deficiencies of Cobb and Schaefer. Among other things, even if combinable, a position that Applicant does not concede, the cited references still fail to disclose all the elements of the pending claim, and thus fail to render claim 38 obvious under § 103(a). As claim 41 depends from claim 38, it too is allowable for at least the same reason.

§ 103(a) Rejection of Claim 27 by Cobb in view of Larkin

In rejecting claim 27, the Examiner relies on Cobb to “disclose substantially all the structure and functionality of the invention, however, the Cobb reference lacks a container with a port having a pierceable membrane”. The Examiner relies on Larkin to teach a container for liquids having a discharge end having at least one port with a pierceable membrane. The Examiner then concludes that it would have been obvious to one having ordinary skill in the art to modify the Cobb container in view of Larkin to come up with the claimed container. (Office Action, page 5).

Claim 27 depends from claim 19. As set forth above, claim 19 is allowable over the ‘803 Cobb reference. Among other things, the ‘803 Cobb reference fails to disclose each and every element of claim 19. As Larkin is merely relied on to disclose a discharge end having at least

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one port with a pierceable membrane, Larkin does not cure the deficiencies of Cobb. Among other things, even if combinable, a position that Applicant does not concede, the cited references still fail to disclose all the elements and limitations of the pending claim, and thus fail to render claim 19 obvious under § 103(a). As claim 27 depends from claim 19, it too is allowable for at least the same reason.

§ 103(a) Rejection of Claim 28 by Cobb in view of Braun

In rejecting claim 28, the Examiner relies on Cobb to “disclose substantially all the structure and functionality of the invention, however, the Cobb reference lacks the bottom wall of the container having a projecting suspension lug”. The Examiner relies on Braun to teach a container for biological liquids having a bottom wall with a projecting suspension lug (12) for the purpose of suspending the container to expel the liquids efficiently from the container. The Examiner then concludes that it would have been obvious to one having ordinary skill in the art to modify the Cobb container in view of Braun to come up with the claimed container. (Office Action, page 5).

Claim 28 depends from claim 19. As set forth above, the ‘803 Cobb reference fails to anticipate claim 19 since it fails to disclose each and every element of the pending claim. As Braun is merely relied on to disclose a bottom wall having a projecting suspension lug, Larkin does not cure the deficiencies of Cobb. Among other things, even if combinable, a position that Applicant does not concede, the cited references still fail to disclose all the elements of the pending claim, and thus fail to render claim 19 obvious under § 103(a). As claim 28 depends from claim 19, it too is allowable for at least the same reason.

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CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully submits that claims 19-41 are patentable over the cited prior art and a notice of allowance is respectfully solicited.

Should the Examiner find it necessary to speak with Applicant's attorney, the Examiner is invited to contact the undersigned at the telephone number identified below.

Respectfully submitted,

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